STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: ILLINOIS

LIENS AND ADJUSTMENTS OR RECOVERIES

1. The State uses the following process for determining that an institutionalized individual cannot reasonably be expected to discharged from the medical institution and return home:

A client who has resided in a medical institution for at least 120 consecutive days is presumed not to be reasonably expected to be discharged and returned home. Transfers from one medical institution to another do not interrupt the 120 day period. Discharge from a medical institution to a community setting terminates the 120 day period and a re-admission to a medical institution starts a new 120 day period.

The 120 day period is centrally tracked. After the 120th day, the client is given written notice of the permanently institutionalized determination and the Department's right to file a lien on the real property. The notice advises the client of the right to appeal the Department's determination that a lien can be filed pursuant to the Department's fair hearing process (as specified at Section 4.2 of the State Plan entitled "Hearings for Applicants and Recipients").

2. The following criteria are used for establishing that a permanently institutionalized individual's son or daughter provided care as specified under regulations at 42 CFR S433.36(f):

The son or daughter must provide documentation that they resided with the individual during the 24 month period before the individual became institutionalized. The documentation must establish that during the 24 month period the individual's address was used by the son or daughter as their mail address, or their address used for driver's license or voter registration, and the address remained unchanged. With documentation of the continuous residency, the client's statement that their presence in the home enabled the individual to live in the community is accepted.

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3. The State defines the terms below as follows:

- Estate

  All real property, personal property and other assets within an individual's estate as provided in Illinois probate law. For a decedent who received benefits under a long term care insurance policy in connection with which assets were disregarded, the term "estate" includes all real property, personal property and other assets in which the individual had a legal title or interest at the time of death (to the extent of such interest), including assets conveyed to a survivor, heir or assignee of the deceased person through joint tenancy, tenancy in common, survivorship, life estate, living trust or other arrangement.

- Individual's home

  Dwelling with adjoining and related real estate which the individual owns and occupies or, when temporarily absent, maintains an intent to return.

- Equity interest in the home

  Current market value of the home less all encumbrances.

- Residing in the home for at least one or two years on a continuous basis

  Occupancy of an individual's home by a sibling or child of the individual as a primary place of residence. During the one or two year period, the individual's home address was used by the sibling or child as their mail address, or their address used for driver's license or voter registration, and the address remained unchanged.

- Lawfully residing

  Use of the property of an individual in a medical institution as the home of a spouse or a minor, blind or disabled child, or a sibling with an ownership interest in the home. Such property must be the spouse's child's or sibling's mail address, or address for driver's license or voter registration.

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- Discharge from the medical institution and return home

  The attending physician has signed an order for discharge from the nursing home, following which the individual has returned to reside in their home. When a person is discharged and returns home, the State's lien is released.

4. The State defines undue hardship as follows:

   Undue hardship exists when the State's recovery from a decedent's estate would cause an heir or beneficiary of the estate to become or remain eligible for a public benefit program, such as SSI, TANF or Food Stamps.

5. The following standards and procedures are used by the State for waiving estate recoveries when recovery would cause an undue hardship:

   The State will waive estate recovery based on undue hardship if pursuing recovery from a decedent's estate would cause an heir or beneficiary of the estate to become or remain eligible for a public benefit program, such as SSI, TANF or Food Stamps.

6. The State defines cost-effective as follows (include methodology/thresholds used to determine cost-effectiveness):

   The State does not make a cost-effectiveness determination.

7. The State uses the following collection procedures (include specific elements contained in the advance notice requirement, the method for applying for a waiver, hearing and appeals procedures, and time frames involved):

   When the State learns of the death of a client, the case is reviewed to determine the value of the estate and whether there are heirs.

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If the estate is probated, the State files a claim with the court. The procedure for providing advance notice to the survivors of the decedent consists of the filing of the claim.

In cases that are not probated, the State uses a Small Estate Affidavit to effect recovery. The affidavit is delivered to the person or entity in possession of the client's money.

In both probate and non-probate cases, the State will provide written notice to known heirs and beneficiaries of the opportunity to request a waiver of estate recovery based on undue hardship. The notice:

- describes how to request a waiver and provides that the request must be submitted within 30 days of the notice;
- indicates where to submit a waiver request;
- specifies that a decision on the waiver request will be made within 30 days of the request; and
- describes available appeal rights if a waiver request is denied.